

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CARLOS ALVAREZ, : X
 Plaintiff, : AMENDED COMPLAINT
—v.— :
 : Docket No. 1:23-cv-01785
 :
NEW YORK STATE CORRECTIONS OFFICER : Plaintiff demands trial by
DANIEL JOHN BOURHILL, : jury of all issues triable by jury
 Defendant :
-----X-----

NOW COMES CARLOS ALVAREZ, by and through his attorney, REHAN NAZRALI, ESQ. as and for his complaint against the Defendant, and respectfully shows to this Court and alleges as follows:

INTRODUCTION

1. This is an action at law to redress the deprivation by Defendant, acting under color of statute, ordinance, regulation, custom and/or usage, of a right, privilege or immunity secured to Plaintiff by the First, Fourth and Fourteenth Amendments to the Constitution of the United States of America with intent to deny Plaintiff his civil rights, all of which arise under Federal Law, particularly Title 42 U.S.C. §§ 1983 and 1988, and the Constitution, Laws and Statutes of the United States and the State of New York.

JURISDICTION AND VENUE

2. This action arises under the United States Constitution, particularly under the provisions of the First, Fourth and Fourteenth Amendments to the Constitution of the United States, and under Federal law, particularly Title 42 of the United States Code, §§1983, 1985, 1986 and 1988. This Court also has jurisdiction of this case under and by virtue of Title 28 of

the United States Code, §§1331, 1342 (4) and 1343. Plaintiff further invokes the supplemental jurisdiction of this Court to adjudicate pendant state law claims pursuant to 28 U.S.C. § 1337.

3. Venue is proper in this district under 28 U.S.C. §1331(b).

THE PARTIES

4. At all times hereinafter mentioned, including March 3, 2020, PLAINTIFF, **CARLOS ALVAREZ**, (hereinafter **Mr. ALVAREZ**) was an inmate at Fishkill Correctional Facility.

5. Upon information and belief, at all times hereinafter, Defendant **NEW YORK STATE CORRECTIONS OFFICER DANIEL JOHN BOURHILL** (hereinafter **C.O. DANIEL JOHN BOURHILL**) on March 3, 2020, was a Corrections Officer assigned to Fishkill Correctional Facility. and still is employed by the New York State Department of Corrections as a Corrections Officer.

6. C.O. **DANIEL JOHN BOURHILL** is described as a male white, approximately 6' tall, approximately 250 lbs. and bald

7. Fishkill Correctional Facility was located at 18 Strack Dr, Beacon, NY 12508.

FACTS

8. That the incident evinced a grave pattern of serious legal and constitutional violations all of which gave rise to this complaint and the several causes of action subsumed thereunder all of which took place and arose in the County of New York, City and State of New York.

9. That the incident occurred on or about March 3, 2020, at approximately 8:00 am, inside Fishkill Correctional Facility.

10. That on or about March 3, 2020, at approximately 8:00 am, inside Fishkill Correctional Facility **Mr. ALVAREZ**, approached **C.O. DANIEL JOHN BOURHILL** regarding a Drs' appointment, at which time **C.O. DANIEL JOHN BOURHILL** stated to **Mr. ALVAREZ** "*get out of here you stupid Spanish motherfucker.*" **Mr. ALVAREZ** responded "*I'm not a stupid Spanish motherfucker*".

11. At that point **C.O. DANIEL JOHN BOURHILL** proceeded to punch **Mr. ALVAREZ** in the face causing him to fall backwards, hitting his back against a floor fan and falling to the floor, losing consciousness.

12. When **Mr. ALVAREZ** regained consciousness and tried to get up, **Mr. ALVAREZ** stated, "*don't bother getting up because nothing is going to happen to me*" as a result of the vicious assault by **C.O. DANIEL JOHN BOURHILL**, **Mr. ALVAREZ** sustained serious injuries to his body.

13. That as a result of the vicious assault by **C.O. DANIEL JOHN BOURHILL**, **Mr. ALVAREZ** sustained serious injuries to right arm, shoulder and back.

14. That the actions of **C.O. DANIEL JOHN BOURHILL** were intentional, malicious, and in bad faith, thus giving rise to punitive damages..

15. As a direct and proximate result of the said acts of the defendants, **Mr. ALVAREZ** suffered the following injuries and damages:

- a. Loss of physical liberty;
- b. Life threatening physical injuries, pain and suffering, extreme fear, emotional trauma, requiring the expenditure of money for treatment for the rest of his life;
- c. Humiliation, embarrassment, and injury to reputation

**AS AND FOR A FIRST CAUSE OF ACTION
FOR UNREASONABLE AND EXCESSIVE FORCE
UNDER 42 USC §1983 AS AGAINST DEFENDANT C.O. DANIEL JOHN BOURHILL**

16. Mr. ALVAREZ hereby incorporates by reference each and every preceding paragraphs 1 through 13, of this civil complaint as though fully plead and re-alleged in their entirety below.

17. That the above describes conduct that took place on March 3, 2020, at approximately 8:00 am the actions of, **C.O. DANIEL JOHN BOURHILL** constitutes unreasonable and excessive force in that the conduct was violent, unprovoked and did cause harmful and/or offensive bodily contact to the person of **Mr. ALVAREZ** and that this conduct upon **Mr. ALVAREZ** was carried out by **C.O. DANIEL JOHN BOURHILL**.

18. By his conduct, **C.O. DANIEL JOHN BOURHILL** through his actions deprived **Mr. ALVAREZ** of his constitutional right to be free from excessive and unreasonable force.

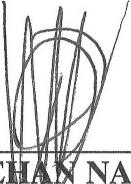
19. By reason of the foregoing, **Mr. ALVAREZ** was injured; was rendered sick, sore lame and disabled; was and/or will be caused to undergo medical treatment and advice; was unable to pursue his usual and regular activities; and upon information and belief his injuries are permanent in nature and effect.

WHEREFORE, the Plaintiff **CARLOS ALVAREZ** demands judgment against the defendant in an amount exceeding twenty million (\$20,000,000.00) dollars, together with the costs and disbursements of this action and any other such relief as this honorable Court and/or trier of fact may deem just, fair and proper, to wit.

a. Twenty million (\$20,000,000.00) dollars in Compensatory damages

- b. Punitive damages.
- c. Pursuant to §1988 An award of reasonable attorney's fees, costs and disbursements;
- d. Mr. ALVAREZ requests a trial by jury of all issues involved in this complaint;
- e. Such other and further relief as this Court may deem just, meet and proper under the circumstances.

Dated: April 16, 2024
New York, NY



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